

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON

ARYASP NEJAT,

Plaintiff,

v.

DELTA AIR LINES, INC.,

Defendant.

Case No. 2:24-cv-01554-BJR

STIPULATED PROTECTIVE ORDER

1. PURPOSES AND LIMITATIONS

Discovery in this action is likely to involve production of confidential, proprietary, or private information for which special protection may be warranted. Accordingly, the parties hereby stipulate to and petition the court to enter the following Stipulated Protective Order. The parties acknowledge that this agreement is consistent with LCR 26(c)(2). It does not confer blanket protection on all disclosures or responses to discovery, the protection it affords from public disclosure and use extends only to the limited information or items that are entitled to confidential treatment under the applicable legal principles, and it does not presumptively entitle parties to file confidential information under seal.

2. "CONFIDENTIAL" MATERIAL

"Confidential" material shall include the following documents and tangible things produced or otherwise exchanged: (a) documents containing medical information or personal identifying information; (b) documents containing private or personal information of non-parties; (c) proprietary

business information of Defendant; (d) documents or testimony containing sensitive financial or other business or organizing confidential information of any party or non-party; (e) anything containing trade secrets of Defendant; (f) Non-public financial, accounting, commercial, proprietary data or applications, or other proprietary or trade secret information of the parties; (g) Information over which the designating party is obligated to maintain confidentiality by law, contract, or otherwise.

3. SCOPE

The protections conferred by this agreement cover not only confidential material (as defined above), but also (1) any information copied or extracted from confidential material; (2) all copies, excerpts, summaries, or compilations of confidential material; and (3) any testimony, conversations, or presentations by parties or their counsel that might reveal confidential material.

However, the protections conferred by this agreement do not cover information that is in the public domain or becomes part of the public domain through trial or otherwise.

4. ACCESS TO AND USE OF CONFIDENTIAL MATERIAL

4.1 Basic Principles. A receiving party may use confidential material that is disclosed or produced by another party or by a non-party in connection with this case only for prosecuting, defending, or attempting to settle this litigation. Confidential material may be disclosed only to the categories of persons and under the conditions described in this agreement. Confidential material must be stored and maintained by a receiving party at a location and in a secure manner that ensures that access is limited to the persons authorized under this agreement.

4.2 Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the designating party, a receiving party may disclose any confidential material only to:

(a) the receiving party's counsel of record in this action, as well as employees of counsel to whom it is reasonably necessary to disclose the information for this litigation;

1 (b) the officers, directors, and employees (including in house counsel) of the
2 receiving party to whom disclosure is reasonably necessary for this litigation, unless the parties agree
3 that a particular document or material produced is for Attorney's Eyes Only and is so designated;

4 (c) experts and consultants to whom disclosure is reasonably necessary for this
5 litigation and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

6 (d) the court, court personnel, and court reporters and their staff;

7 (e) copy or imaging services retained by counsel to assist in the duplication of
8 confidential material, provided that counsel for the party retaining the copy or imaging service
9 instructs the service not to disclose any confidential material to third parties and to immediately
10 return all originals and copies of any confidential material;

11 (f) during their depositions, witnesses in the action to whom disclosure is
12 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"
13 (Exhibit A), unless otherwise agreed by the designating party or ordered by the court. Pages of
14 transcribed deposition testimony or exhibits to depositions that reveal confidential material must be
15 separately bound by the court reporter and may not be disclosed to anyone except as permitted under
16 this agreement;

17 (g) the author or recipient of a document containing the information or a
18 custodian or other person who otherwise possessed or knew the information.

19 4.3 Filing Confidential Material. Before filing confidential material or discussing or
20 referencing such material in court filings, the filing party shall confer with the designating party, in
21 accordance with Local Civil Rule 5(g)(3)(A), to determine whether the designating party will
22 remove the confidential designation, whether the document can be redacted, or whether a motion to
23 seal or stipulation and proposed order is warranted. During the meet and confer process, the
24 designating party must identify the basis for sealing the specific confidential information at issue
25 and the filing party shall include this basis in its motion to seal, along with any objection to sealing
26 the information at issue. Local Civil Rule 5(g) sets forth the procedures that must be followed and

the standards that will be applied when a party seeks permission from the court to file material under seal. A party who seeks to maintain the confidentiality of its information must satisfy the requirements of Local Civil Rule 5(g)(3)(B), even if it is not the party filing the motion to seal. Failure to satisfy this requirement will result in the motion to seal being denied, in accordance with the strong presumption of public access to the Court's files.

5. DESIGNATING PROTECTED MATERIAL

5.1 Exercise of Restraint and Care in Designating Material for Protection. Each party or non-party that designates information or items for protection under this agreement must take care to limit any such designation to specific material that qualifies under the appropriate standards. The designating party must designate for protection only those parts of material, documents, items, or oral or written communications that qualify, so that other portions of the material, documents, items, or communications for which protection is not warranted are not swept unjustifiably within the ambit of this agreement.

Mass, indiscriminate, or routinized designations are prohibited. Designations that are shown to be clearly unjustified or that have been made for an improper purpose (*e.g.*, to unnecessarily encumber or delay the case development process or to impose unnecessary expenses and burdens on other parties) expose the designating party to sanctions.

If it comes to a designating party's attention that information or items that it designated for protection do not qualify for protection, the designating party must promptly notify all other parties that it is withdrawing the mistaken designation.

5.2 Manner and Timing of Designations. Except as otherwise provided in this agreement (see, *e.g.*, second paragraph of section 5.2(b) below), or as otherwise stipulated or ordered, disclosure or discovery material that qualifies for protection under this agreement must be clearly so designated before or when the material is disclosed or produced.

(a) Information in documentary form: (*e.g.*, paper or electronic documents and deposition exhibits, but excluding transcripts of depositions or other pretrial or trial proceedings),

the designating party must affix the word “CONFIDENTIAL” to each page that contains confidential material. If only a portion or portions of the material on a page qualifies for protection, the producing party also must clearly identify the protected portion(s) (*e.g.*, by making appropriate markings in the margins).

(b) Testimony given in deposition or in other pretrial proceedings: the parties and any participating non-parties must identify on the record, during the deposition or other pretrial proceeding, all protected testimony, without prejudice to their right to so designate other testimony after reviewing the transcript. Any party or non-party may, within fifteen days after receiving the transcript of the deposition or other pretrial proceeding, designate portions of the transcript, or exhibits thereto, as confidential. If a party or non-party desires to protect confidential information at trial, the issue should be addressed during the pre-trial conference.

(c) Other tangible items: the producing party must affix in a prominent place on the exterior of the container or containers in which the information or item is stored the word “CONFIDENTIAL.” If only a portion or portions of the information or item warrant protection, the producing party, to the extent practicable, shall identify the protected portion(s).

5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the designating party’s right to secure protection under this agreement for such material. Upon timely correction of a designation, the receiving party must make reasonable efforts to ensure that the material is treated in accordance with the provisions of this agreement.

6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

6.1 Timing of Challenges. Any party or non-party may challenge a designation of confidentiality at any time. Unless a prompt challenge to a designating party’s confidentiality designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic burdens, or a significant disruption or delay of the litigation, a party does not waive its right to challenge a

1 confidentiality designation by electing not to mount a challenge promptly after the original
2 designation is disclosed.

3 6.2 Meet and Confer. The parties must make every attempt to resolve any dispute
4 regarding confidential designations without court involvement. Any motion regarding confidential
5 designations or for a protective order must include a certification, in the motion or in a declaration
6 or affidavit, that the movant has engaged in a good faith meet and confer conference with other
7 affected parties in an effort to resolve the dispute without court action. The certification must list the
8 date, manner, and participants to the conference. A good faith effort to confer requires a face-to-face
9 meeting or a telephone conference.

10 6.3 Judicial Intervention. If the parties cannot resolve a challenge without court
11 intervention, the designating party may file and serve a motion to retain confidentiality under Local
12 Civil Rule 7 (and in compliance with Local Civil Rule 5(g), if applicable). The burden of persuasion
13 in any such motion shall be on the designating party. Frivolous challenges, and those made for an
14 improper purpose (*e.g.*, to harass or impose unnecessary expenses and burdens on other parties) may
15 expose the challenging party to sanctions. All parties shall continue to maintain the material in
16 question as confidential until the court rules on the challenge.

17 7. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER
18 LITIGATION

19 If a party is served with a subpoena or a court order issued in other litigation that compels
20 disclosure of any information or items designated in this action as “CONFIDENTIAL,” that party
21 must:

22 (a) promptly notify the designating party in writing and include a copy of the
23 subpoena or court order;

24 (b) promptly notify in writing the party who caused the subpoena or order to issue
25 in the other litigation that some or all of the material covered by the subpoena or order is subject to
26 this agreement. Such notification shall include a copy of this agreement; and

1 (c) cooperate with respect to all reasonable procedures sought to be pursued by
 2 the designating party whose confidential material may be affected.

3 8. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

4 Any person in possession of another party's Confidential information shall maintain a
 5 written information security program that includes reasonable administrative, technical, and
 6 physical safeguards designed to protect the security and confidentiality of such Confidential
 7 information, protect against any reasonably anticipated threats or hazards to the security of such
 8 Confidential information, and protect against unauthorized access to or use of such Confidential
 9 information. To the extent a person or party does not have an information security program they
 10 may comply with this provision by having the Confidential information managed by and/or stored
 11 with eDiscovery vendors or claims administrators that maintain such an information
 12 security program.

13 If a receiving party learns that, by inadvertence or otherwise, it has disclosed confidential
 14 material to any person or in any circumstance not authorized under this agreement, the receiving
 15 party must immediately (a) notify in writing the designating party of the unauthorized disclosures,
 16 (b) use its best efforts to retrieve all unauthorized copies of the protected material, (c) inform the
 17 person or persons to whom unauthorized disclosures were made of all the terms of this agreement,
 18 and (d) request that such person or persons execute the "Acknowledgment and Agreement to Be
 19 Bound" that is attached hereto as Exhibit A.

20 If the receiving party discovers a breach of security, including any actual or suspected
 21 unauthorized access, relating to another party's Confidential information, the receiving party
 22 shall: (a) promptly provide written notice to the designating party of such breach; (b) investigate and
 23 take reasonable efforts to remediate the effects of the breach, and provide the designating party with
 24 assurances reasonably satisfactory to the designating party that such breach shall not recur; and (c)
 25 provide sufficient information about the breach that the designating Party can reasonably
 26 ascertain the size and scope of the breach. If required by any judicial or governmental request,

1 requirement, or order to disclose such information, the receiving party shall take all reasonable steps
 2 to give the designating party sufficient prior notice in order to contest such request, requirement, or
 3 order through legal means. The receiving party agrees to cooperate with the designating party or
 4 law enforcement in investigating any such security incident. In any event, the receiving party shall
 5 promptly take all necessary and appropriate corrective action to terminate the unauthorized access.

6 9. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED
 7 MATERIAL

8 When a producing party gives notice to receiving parties that certain inadvertently produced
 9 material is subject to a claim of privilege or other protection, the obligations of the receiving parties
 10 are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to
 11 modify whatever procedure may be established in an e-discovery order or agreement that provides
 12 for production without prior privilege review. The parties agree to the entry of a non-waiver order
 13 under Fed. R. Evid. 502(d) as set forth herein.

14 10. NON-TERMINATION AND RETURN OF DOCUMENTS

15 (a) Within 60 days after the termination of this action, including all appeals, each receiving
 16 party must return all confidential material to the producing party, including all copies, extracts and
 17 summaries thereof. Alternatively, the parties may agree upon appropriate methods of destruction.

18 (b) If Confidential material or Protected Documents have been loaded into any litigation
 19 review database, the attorney for the party using such database shall have the responsibility of
 20 ensuring that all such Confidential material or Protected Documents, including all associated images
 21 and native files, are extracted from such databases (including any associated staging databases) and
 22 destroyed. "Destroyed" shall mean deletion of documents from all databases, applications, and/or
 23 file systems in a manner such that they are not readily accessible without the use of specialized tools
 24 or techniques typically used by a forensic expert.

25 (c) Notwithstanding this provision, counsel are entitled to retain one archival copy of all
 26 documents filed with the court, trial, deposition, and hearing transcripts, correspondence, deposition

1 and trial exhibits, expert reports, attorney work product, and consultant and expert work product,
2 even if such materials contain confidential material.

3 (d) The confidentiality obligations imposed by this agreement shall remain in effect until a
4 designating party agrees otherwise in writing or a court orders otherwise.

5 11. COMPUTATION OF TIME

6 The computation of any period of time prescribed or allowed by this Order shall be
7 governed by the provisions for computing time set forth in Federal Rule of Civil Procedure 6(a)–
8 (c).

9
10 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

11 Dated: January 7, 2025

12
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1 PURSUANT TO STIPULATION, IT IS SO ORDERED.

2 IT IS FURTHER ORDERED that pursuant to Fed. R. Evid. 502(d), the production of any
3 documents, electronically stored information (ESI) or information, whether inadvertent or otherwise,
4 in this proceeding shall not, for the purposes of this proceeding or any other federal or state
5 proceeding, constitute a waiver by the producing party of any privilege applicable to those
6 documents, including the attorney-client privilege, attorney work-product protection, or any other
7 privilege or protection recognized by law. This Order shall be interpreted to provide the maximum
8 protection allowed by Fed. R. Evid. 502(d). The provisions of Fed. R. Evid. 502(b) do not apply.
9 Nothing contained herein is intended to or shall serve to limit a party's right to conduct a review of
10 documents, ESI or information (including metadata) for relevance, responsiveness and/or
11 segregation of privileged and/or protected information before production. Information produced in
12 discovery that is protected as privileged or work product shall be immediately returned to the
13 producing party.

14
15 DATED: January 7, 2025.



The Honorable Barbara J. Rothstein
United States District Judge

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Western District of Washington on _____ in the case of *Aryasp Nejat v. Delta Air Lines, Inc.*, Case No. 2:24-cv-01554-BJR. I agree to comply with and to be bound by all terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Western District of Washington for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____

CERTIFICATE OF SERVICE

I am a resident of the State of Washington, over the age of eighteen years, and not a party to the within action. My business address is One Union Square, 600 University Street, Ste. 3200, Seattle, WA 98101. I hereby certify that on January 7, 2025, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will give notice of such filing to the following:

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I declare under the penalty of perjury under the laws of the State of Washington that the above is true and correct.

Executed on January 7, 2025, at Seattle, Washington.

/s Karen Fiumano Yun

Karen Fiumano Yun
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LITTLER MENDELSON, P.C.

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